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| 10/736,413 | 12/15/2003 | Joseph John Fatula JR. | SJO920030055US1 | 3992 |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/736,413 | FATULA, JOSEPH JOHN |
| | Examiner | Art Unit |
| | Lin Liu | 2145 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>09 July 2007</u>.

2a)☐ This action is **FINAL.**    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-46</u> is/are pending in the application.

    4a) Of the above claim(s) <u>26-29</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-25 and 30-46</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>15 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/15/2003 and 04/07/2005</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.      This office action is responsive to communications filed on 07/09/2007.

2.      The information disclosure statement (I.D.S) filed on 12/15/2003 and 04/07/2005

are considered.


### *Election/Restrictions*

3.      Applicant's election with traverse of Invention II in the reply filed on 07/09/2007 is

acknowledged, but they are not persuasive.

4.      In response to applicant's argument that "the subscription manager is a logical

and obvious extension of the features and capabilities recited in the claims of invention

I. The subscription manager in Claims 26-29 includes substantially the same subject

matter and features or a logical and obvious extension of the features recited in the

other claims of invention I.", the PTO respectfully disagrees. The subscription manager

described in the dependent claims 21-24 is mainly directed toward the usage of the

subscription manager in tracking the source storage/resource of the source and target

clients, whereas the subscription manager claimed in claims 26-29 goes more specific

into the details of the subscription manager in performing the fee calculation based on

the client's resource being allocated. These two subject matters are distinguished from

each other, wherein the latter one (claims 26-29) is another set of invention, which

should be classified in class 705 and subclass 400, in more specific it deals with

cost/price payment calculation for the usage of the resource.

The requirement is still deemed proper and is therefore made FINAL.

5.      Claims 26-29 are withdrawn from further consideration pursuant to 37 CFR

1.142(b), as being drawn to a nonelected invention II, there being no allowable generic

or linking claim. Applicant timely traversed the restriction (election) requirement in the

reply filed on 07/09/2007.


## *Claim Rejections - 35 USC § 112*

6.      The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

7.      **Claims 1-25 and 30-46** are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

8.      The term "non-transparent sequence" recited in claims 1, 7, 13, 16, 19, 30, 36,

37, 40, and 46 is a relative term, which renders the claims indefinite. The term "non-

transparent sequence" is unclear and vague as what applicant refers it as. All the

dependent claims are rejected for the same rationale.

9.      Claims 3, 31 and 38 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. Claims 3, 31 and 38 recite the limitation "the

data file". There is insufficient antecedent basis for this limitation in the claims. For the

purpose of examination, examiner treats it as "the metadata file".

## *Claim Rejections - 35 USC § 103*

10.    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

11.    Claims 1-25 and 30-46 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Beeler, JR. (publication no.: US 2004/0083245 A1)** in view of

**Schutzman et al. (Patent no.: US 6,505,216 B1)** and **Goddard (patent no.: US**

**6,883,110 B1).**

With respect to **claim 1,** Beeler teaches a sequence management apparatus for

backing up data across a plurality of servers (Beeler, fig. 5), the apparatus comprising:

a client request module configured to receive data to be backed up from a source

server (Beeler, page 5, paragraphs 78-79, noted that the workstation 30 initiates the

backup request from a source server to target servers);

a sequence module configured to generate a non-transparent sequence of a

plurality of target servers (Beeler, page 6, paragraph 84, noted that the a list of available

target servers are generated); and

a packet storage module configured to store the data on the plurality of target

servers according to the non-transparent sequence (Beeler, page 6, paragraph 91, and

page 9, paragraph 121, noted that the data is backed up from the source server to

target servers).

However, Beeler does not explicitly teach a method of performing data backup from a source client to a plurality of target servers.

In the same field of endeavor, Schutzman teaches a method of performing data backup from a source client to a plurality of the target servers. (Schutzman, fig. 2, and col. 13, lines 29-55, noted that the host client backs up data to the backup server and the data is being stored in the backup storage servers 114).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the backup host client as taught by Schutzman in Beeler's invention to perform data backup from a client device to a plurality of target storage servers via a source server.

However, the combined method of Beeler and Schutzman does not explicitly teach a method of performing data backup to plurality of the client computers

In the same field of endeavor, Goddard teaches a method of performing data backup to plurality of the client computers (Goddard, figures 1 and 2, col. 4 lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the plurality of target clients as taught by Goddard in the combined method of Beeler's and Schutzman's invention in order to back up data to the plurality of client computers without adding additional storage devices to the source client/source (Goddard, col. 2, lines 7-15).

With respect to **claim 2,** Beeler teaches the apparatus of claim 1, further comprising a global profile management module configured to manage a metadata file,

the metadata file descriptive of the data backed up on the plurality of target clients

(Beeler, fig. 17, page 8, paragraph 105, noted the transaction log).

With respect to **claim 3,** Beeler teaches the apparatus of claim 2, wherein the

metadata file is selected from the group consisting of a global client profile, a source

client profile, a source data record, a target data record, a data assembly record, and a

global backup log (Beeler, fig. 17, page 8, paragraph 105, noted the transaction log).

With respect to **claim 4,** the combined method of Beeler and Schutzman teaches

all the claimed limitations, except that they do not explicitly teach a method of using a

unique data identifier corresponding to the data to map the data to the source client, the

unique data identifier indicating a uniqueness of the data as compared to other data.

In the same field of endeavor, Goddard teaches a method of using a unique data

identifier corresponding to the data to map the data to the source client (Goddard, fig. 2,

col. 4 line 59 to col. 5 line 13, noted the server data identifiers).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the method of server data identifiers as taught by

Goddard in the combined method of Beeler's and Schutzman's invention in order to

backup and restore data based on the server data identifiers (Goddard, col. 5, lines 5-

13).

With respect to **claim 5**, the combined method of Beeler and Schutzman teaches

all the claimed limitations, except that they do not explicitly teach a method of mapping

the unique data identifier to a second source client on which an identical copy of the

data is stored.

In the same field of endeavor, Goddard teaches a method of mapping the unique

data identifier to a second source client on which an identical copy of the data is stored.

(Goddard, fig. 2, col. 4 line 59 to col. 5 line 13).

With respect to **claim 6,** Beeler teaches the apparatus of claim 1, further

comprising a packet retrieval module configured to retrieve at least a portion of the data

backed up on one of the plurality of the target clients in response to a restore request

from the source client (Beeler, page 6, paragraph 92, restore request).

With respect to **claim 7,** Beeler teaches the apparatus of claim 6, wherein the

packet retrieval module is further configured to retrieve the at least a portion of the data

backed up on one of the plurality of the target clients according to the non-transparent

sequence generated by the sequence module (Beeler, page 6 paragraph 92, and page

10 paragraph 131).

With respect to **claim 8,** the combined method of Beeler and Schutzman teaches

all the claimed limitations, except that they do not explicitly teach a method of

assembling the data in a comprehensible format in response to a restore request from

the source client.

In the same field of endeavor, Goddard teaches a method of assembling the data

in a comprehensible format in response to a restore request from the source client

(Goddard, fig. 5, col. 6, lines 12-27, noted that different portions of data is reconstructed

and restored).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the method of reconstructing and restoring

different portions of data from the target clients as taught by Goddard in the combined

method of Beeler's and Schutzman's invention in order to back up data due to server

failure (Goddard, col. 6, lines 41-52).

With respect to **claim 9,** Beeler teaches the apparatus of claim 1, wherein the

packet storage module is further configured to separate the data into a plurality of data

packets and to store the data packets on the plurality of target clients (Beeler, page 9,

paragraph 113).

With respect to **claim 10,** Beeler teaches the apparatus of claim 9, further

comprising a compression module configured to compress the data within the data

packets prior to storing the data packets on the plurality of target clients (Beeler, page 9,

paragraph 123, noted the compression algorithm used).

With respect to **claim 11,** Beeler teaches the apparatus of claim 9, further

comprising an encryption module configured to encrypt the data within the data packets

prior to storing the data packets on the plurality of target clients (Beeler, page 9,

paragraph 123, noted the encryption algorithm).

With respect to **claim 12,** the combined method of Beeler and Schutzman

teaches all the claimed limitations, except that they do not explicitly teach a method of

creating a redundant data packet of at least one of the data packets prior to storing the

data packets on the plurality of target clients.

In the same field of endeavor, Goddard teaches a method of creating a

redundant data packet of at least one of the data packets prior to storing the data

packets on the plurality of target clients (Goddard, col. 6, lines 41-52, noted the parity data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of creating a parity data packet as taught by Goddard in the combined of Beeler and Schutzman in order to maintain data server integrity during data reconstruction (Goddard, col. 6, lines 41-52).

With respect to **claim 13**, the combined method of Beeler and Schutzman teaches all the claimed limitations, except that they do not explicitly teach a method of storing the redundant data packet on one of the plurality of target clients.

In the same field of endeavor, Goddard teaches a method of storing the redundant data packet on one of the plurality of target clients (Goddard, fig. 6 and col. 6, lines 28-40).

With respect to claim 14, Beeler teaches the apparatus of claim 9, wherein the packet storage module stores the data packets on the plurality of target clients according to a packet proximity parameter, the packet proximity parameter defining at least one of a minimum and a maximum distance between a first target client and a second target client (Beeler, page 6, paragraph 84).

With respect to **claim 15**, The apparatus of claim 1, wherein the packet storage module stores the data on the plurality of target clients according to a backup proximity parameter, the backup proximity parameter defining at least one of a minimum and a maximum distance between the source client and each of the plurality of target client (Beeler, page 6, paragraph 85, noted the a location is specified).

With respect to **claim 16,** Beeler teaches a client for backing up data across a

plurality of servers in conjunction with a sequence management apparatus, the server

comprising:

a network interface configured to communicate with the sequence management

apparatus (Beeler, page 6, paragraphs 84-85);

a storage configured to define an allocated storage (Beeler, fig. 5, page 10,

paragraph 125); and

a client backup manager apparatus configured to manage a backup operation

using a non-transparent sequence (Beeler, page 6, paragraph 84, noted that the a list of

available target servers are generated).

However, Beeler does not explicitly teach a method of using a unique data

identifier.

In the same field of endeavor, Goddard teaches a method of using a unique data

identifier corresponding to the data to map the data to the source client (Goddard, fig. 2,

col. 4 line 59 to col. 5 line 13, noted the server data identifiers).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the method of server data identifiers as taught by

Goddard in the combined method of Beeler's and Schutzman's invention in order to

backup and restore data based on the server data identifiers (Goddard, col. 5, lines 5-

13).

However, Beeler does not explicitly teach a method of performing data backup

from a source client to a plurality of target servers.

In the same field of endeavor, Schutzman teaches a method of performing data backup from a source client to a plurality of the target servers. (Schutzman, fig. 2, and col. 13, lines 29-55, noted that the host client backs up data to the backup server and the data is being stored in the backup storage servers 114).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the backup host client as taught by Schutzman in Beeler's invention to perform data backup from a client device to a plurality of target storage servers via a source server.

However, the combined method of Beeler and Schutzman does not explicitly teach a method of performing data backup to plurality of the client computers

In the same field of endeavor, Goddard teaches a method of performing data backup to plurality of the client computers (Goddard, figures 1 and 2, col. 4 lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the plurality of target clients as taught by Goddard in the combined method of Beeler's and Schutzman's invention in order to back up data to the plurality of client computers without adding additional storage devices to the source client/source (Goddard, col. 2, lines 7-15).

With respect to **claim 17,** Beeler teaches all the limitations, except that he does not explicitly teach a method of performing data backup from a source client to a plurality of target servers.

In the same field of endeavor, Schutzman teaches a method of performing data backup from a source client to a plurality of the target servers. (Schutzman, fig. 2, and

col. 13, lines 29-55, noted that the host client backs up data to the backup server and

the data is being stored in the backup storage servers 114).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the backup host client as taught by Schutzman

in Beeler's invention to perform data backup from a client device to a plurality of target

storage servers via a source server.

With respect to **claim 18,** Beeler teaches all the limitations, except that he does

not explicitly teach a method of performing data backup to plurality of the client

computers.

In the same field of endeavor, Goddard teaches a method of performing data

backup to plurality of the client computers (Goddard, figures 1 and 2, col. 4 lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to substitute the plurality of target clients as taught by Goddard

in the combined method of Beeler's and Schutzman's invention in order to back up data

to the plurality of client computers without adding additional storage devices to the

source client/source (Goddard, col. 2, lines 7-15).

With respect to **claim 19,** Beeler a system for backing up data across a plurality

of servers, the system comprising:

a network communications channel (Beeler, fig. 5, page 5, paragraph 75, LAN);

a source server connected to the network communications channel and

configured to initiate a data backup operation (Beeler, fig. 5, page 5, paragraph 75,

noted the source server 52);

a plurality of target servers connected to the network communications channel

and configured to store at least a portion of the data (Beeler, fig. 5, page 5, paragraph

79, noted the target servers 54); and

a global sequence manager connected to the network communications channel

and configured to store the data on the plurality of target servers according to a non-

transparent sequence (Beeler, fig. 11, page 6, paragraphs 84-85).

However, Beeler does not explicitly teach a method of performing data backup

from a source client to a plurality of target servers.

In the same field of endeavor, Schutzman teaches a method of performing data

backup from a source client to a plurality of the target servers. (Schutzman, fig. 2, and

col. 13, lines 29-55, noted that the host client backs up data to the backup server and

the data is being stored in the backup storage servers 114).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the backup host client as taught by Schutzman

in Beeler's invention to perform data backup from a client device to a plurality of target

storage servers via a source server.

However, the combined method of Beeler and Schutzman does not explicitly

teach a method of performing data backup to plurality of the client computers

In the same field of endeavor, Goddard teaches a method of performing data

backup to plurality of the client computers (Goddard, figures 1 and 2, col. 4 lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to substitute the plurality of target clients as taught by Goddard

in the combined method of Beeler's and Schutzman's invention in order to back up data

to the plurality of client computers without adding additional storage devices to the

source client/source (Goddard, col. 2, lines 7-15).

**Claim 20** lists all the same elements of **claims 4 and 5**. Therefore, the

supporting rationale of the rejection to **claims 4 and 5** applies equally as well to **claim**

**20**.

With respect to **claim 21,** Beeler teaches the system of claim 19, further

comprising a subscription manager configured to manage a contractual subscription of

each of the source client and the plurality of target clients (Beeler, fig. 11, page 6,

paragraph 88).

With respect to **claim 22,** Beeler teaches the system of claim 21, wherein the

global sequence manager and subscription manager are further configured to track a

source storage allocation parameter of the source client (Beeler, page 7, paragraph 95).

With respect to **claim 23,** Beeler teaches the system of claim 21, wherein the

global sequence manager and subscription manager are further configured to track a

target storage allocation parameter of each of the plurality of target clients (Beeler, page

6, paragraph 94).

With respect to **claim 24,** Beeler teaches the system of claim 21, wherein the

global sequence manager and subscription manager are configured to track a resource

allocation parameter (Beeler, pages 6-7, paragraphs 94-95).

With respect to **claim 25,** Beeler teaches the system of claim 24, wherein the

resource allocation parameter is selected from the group consisting of a network

allocation parameter, a client processor parameter, and a client bandwidth parameter

(Beeler, pages 6-7, paragraphs 94-95).

**Claims 26-29** are withdrawn.

In regard to **claim 30,** the limitations of these claims are substantially the same

as those in claim 1. Therefore the same rationale for rejecting claim 1 is used to reject

claim 30. By this rationale **claim 30** is rejected.

In regard to **claim 31,** the limitations of these claims are substantially the same

as those in claims 2 and 3. Therefore the same rationale for rejecting claims 2 and 3 is

used to reject claim 31. By this rationale **claim 31** is rejected.

In regard to **claim 32,** the limitations of these claims are substantially the same

as those in claim 9. Therefore the same rationale for rejecting claim 9 is used to reject

claim 32. By this rationale **claim 32** is rejected.

In regard to **claim 33,** the limitations of these claims are substantially the same

as those in claim 4. Therefore the same rationale for rejecting claim 4 is used to reject

claim 33. By this rationale **claim 33** is rejected.

In regard to **claim 34,** the limitations of these claims are substantially the same

as those in claim 21. Therefore the same rationale for rejecting claim 21 is used to

reject claim 34. By this rationale **claim 34** is rejected.

In regard to **claim 35,** the limitations of these claims are substantially the same

as those in claims 24 and 25. Therefore the same rationale for rejecting claims 24 and

25 is used to reject claim 25. By this rationale **claim 25** is rejected.

With respect to **claim 36,** Beeler teaches a method for backing up data across a

plurality of servers, the method comprising:

requesting data to be backed up from a source client (Beeler, fig. 5, page 6,

paragraph 91);

receiving data to be backed up from a source server (Beeler, page 5, paragraphs

78-79, noted that the workstation 30 initiates the backup request from a source server to

target servers);

separating the data into a plurality of data packets (Beeler, page 9, paragraph

113);

generating a non-transparent sequence of a plurality of target servers (Beeler,

page 6, paragraph 91, and page 9, paragraph 121, noted that the data is backed up

from the source server to target servers);

storing the data packets on the plurality of target servers according to the non-

transparent sequence (Beeler, page 6, paragraph 91, and page 9, paragraph 121, noted

that the data is backed up from the source server to target servers).

managing a metadata file descriptive of the data backed up on the plurality of

target servers (Beeler, fig. 17, page 8, paragraph 105, noted the transaction log);

tracking a resource allocation parameter, wherein the resource allocation

parameter is one of a source storage allocation parameter, a target storage allocation

parameter, a network allocation parameter, a client processor parameter, and a client bandwidth parameter (Beeler, pages 6-7, paragraphs 94-95); and

managing a contractual subscription of the source server and the plurality of target servers (Beeler, fig. 11, page 6, paragraph 88).

However, Beeler does not explicitly teach a method of performing data backup from a source client to a plurality of target servers.

In the same field of endeavor, Schutzman teaches a method of performing data backup from a source client to a plurality of the target servers. (Schutzman, fig. 2, and col. 13, lines 29-55, noted that the host client backs up data to the backup server and the data is being stored in the backup storage servers 114).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the backup host client as taught by Schutzman in Beeler's invention to perform data backup from a client device to a plurality of target storage servers via a source server.

However, the combined method of Beeler and Schutzman does not explicitly teach a method of performing data backup to plurality of the client computers

In the same field of endeavor, Goddard teaches a method of performing data backup to plurality of the client computers (Goddard, figures 1 and 2, col. 4 lines 1-17).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the plurality of target clients as taught by Goddard in the combined method of Beeler's and Schutzman's invention in order to back up data

to the plurality of client computers without adding additional storage devices to the

source client/source (Goddard, col. 2, lines 7-15).

The combined method of Beeler and Schutzman teaches all the claimed

limitations, except that they do not explicitly teach a method of using a unique data

identifier corresponding to the data to map the data to the source client.

In the same field of endeavor, Goddard teaches a method of using a unique data

identifier corresponding to the data to map the data to the source client (Goddard, fig. 2,

col. 4 line 59 to col. 5 line 13, noted the server data identifiers).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate the method of server data identifiers as taught by

Goddard in the combined method of Beeler's and Schutzman's invention in order to

backup and restore data based on the server data identifiers (Goddard, col. 5, lines 5-

13).

In regard to **claim 37,** the limitations of these claims are substantially the same

as those in claim 1, but rather in a computer code stored in a computer storage medium

form. Therefore the same rationale for rejecting claim 1 is used to reject claim 37. By

this rationale **claim 37** is rejected.

In regard to **claim 38,** the limitations of these claims are substantially the same

as those in claims 2 and 3. Therefore the same rationale for rejecting claims 2 and 3 is

used to reject claim 38. By this rationale **claim 38** is rejected.

In regard to **claim 39,** the limitations of these claims are substantially the same as those in claim 4. Therefore the same rationale for rejecting claim 4 is used to reject claim 39. By this rationale **claim 39** is rejected.

In regard to **claim 40,** the limitations of these claims are substantially the same as those in claim 7. Therefore the same rationale for rejecting claim 7 is used to reject claim 40. By this rationale **claim 40** is rejected.

In regard to **claim 41,** the limitations of these claims are substantially the same as those in claim 8. Therefore the same rationale for rejecting claim 8 is used to reject claim 41. By this rationale **claim 41** is rejected.

In regard to **claim 42,** the limitations of these claims are substantially the same as those in claim 9. Therefore the same rationale for rejecting claim 9 is used to reject claim 42. By this rationale **claim 42** is rejected.

In regard to **claim 43,** the limitations of these claims are substantially the same as those in claim 14. Therefore the same rationale for rejecting claim 14 is used to reject claim 43. By this rationale **claim 43** is rejected.

In regard to **claim 44,** the limitations of these claims are substantially the same as those in claims 10-13. Therefore the same rationale for rejecting claims 10-13 is used to reject claim 44. By this rationale **claim 44** is rejected.

In regard to **claim 45,** the limitations of these claims are substantially the same as those in claim 15. Therefore the same rationale for rejecting claim 15 is used to reject claim 45. By this rationale **claim 45** is rejected.

In regard to **claim 46,** the limitations of these claims are substantially the same as those in claim 1. Therefore the same rationale for rejecting claim 1 is used to reject claim 46. By this rationale **claim 46** is rejected.


### Conclusion

12.    The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Bucher (publication no.: US 2004/0039829 A1) discloses a peer to peer remote data storage and collaboration method.

- Bantz et al. (Publication no.: US 2002/0169877 A1) discloses a method for subscription computing using spare resources of subscriber computing platforms.

- Micka et al. (Patent no.: US 6,189,079 B1) discloses a method of performing data copy between peer-to-peer controllers.

- Bantz et al. (patent no.: US 7,213,158 B2) discloses a method of distributed autonomic backup.

- Ji et al. (Patent no.: US 7,089,383 B2) discloses a state machine system for redundantly backing up data.

13.    Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Liu whose telephone number is (571) 270-1447. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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09/10/2007

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